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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Communication No. 503/2012

Decision adopted by the Committee at its fifty-second session (28 April–23 May 2014)

Submitted by:	Boniface Ntikarahera, represented by Track Impunity Always (TRIAL)
Alleged victim:	The complainant
State party:	Burundi
Date of complaint:	12 April 2012 (initial submission)
Date of decision:	12 May 2014
Subject matter:	Torture committed by police officers
Procedural issues:	–
Substantive issues:	Torture and cruel, inhuman or degrading treatment or punishment; obligation to systematically monitor interrogation techniques and practices; obligation of the State party to ensure that the competent authorities conduct a prompt and impartial investigation; right to lodge a complaint; right to redress
Articles of the Convention:	Articles 2 (para. 1), 11, 12, 13 and 14, read in conjunction with articles 1 and 16 of the Convention

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Annex

Decision of the Committee against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (fifty-second session)

concerning

Communication No. 503/2012

Submitted by:	Boniface Ntikarahera, represented by Track Impunity Always (TRIAL)
Alleged victim:	The complainant
State party:	Burundi
Date of complaint:	12 April 2012 (initial submission)

The Committee against Torture, established under article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Meeting on 12 May 2014,

Having concluded its consideration of complaint No. 503/2012, submitted to the Committee against Torture by Mr. Boniface Ntikarahera under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Having taken into account all information made available to it by the complainant, his counsel and the State party,

Adopts the following:

Decision under article 22, paragraph 7, of the Convention against Torture

1.1 The complainant is Mr. Boniface Ntikarahera, born in 1971 in Kirambi, Rusaka commune, Mwaro Province, and residing in Nyakabiga commune, Bujumbura Province, Burundi. He claims he was the victim of violations of article 2, paragraph 1, and articles 11, 12, 13 and 14, read in conjunction with article 1 or, alternatively, article 16 of the Convention. The complainant is represented by counsel.

1.2 On 25 April 2012, in accordance with paragraph 1 of rule 114 (formerly rule 108) of its rules of procedure (CAT/C/3/Rev.5), the Committee requested the State party to adopt effective measures, throughout the duration of the Committee's consideration of the complaint, to prevent any threats or acts of violence to which the complainant or his family might be exposed, in particular as a result of having lodged the present complaint.

The facts as submitted by the complainant

2.1 The complainant is a night watchman at Prince Regent Charles Hospital in Bujumbura. On the night of 17 October 2010, at approximately 3 a.m., he watched two white pickup trucks park in front of the hospital's emergency room. The complainant went to the vehicles to see whether anybody required medical attention. It was then that he

recognized the mayor and the municipal police commissioner of Bujumbura. They were accompanied by 11 unidentified individuals, some of them wearing police uniforms and others dressed in civilian clothes. The mayor, who seemed extremely agitated, ordered the complainant to go get the medical attendants. Four police officers then threw two injured persons, one of whom was covered in blood and could not stand up, to the ground in front of the emergency room. The reason the mayor was so nervous was that he had just been involved in a fight with some young people in a nightclub in central Bujumbura. The two individuals had been injured when the police stepped in to protect the mayor during the fight.

2.2 Having realized that the mayor planned to abandon the two injured persons in front of the hospital, the complainant asked him about medical coverage for the two individuals and whether he intended to pay the necessary security deposit. By way of response, the mayor slapped him hard, twice. Police officers then started to chase the complainant, who was trying to run away, and caught him. The commissioner shoved the complainant, and when he fell to the ground, started kicking him violently in the back and elsewhere. Due to the force of the blows, the complainant started bleeding from the mouth and was crying out in pain. Nonetheless, four police officers continued to strike him and to slap him across the face. During the incident, the mayor encouraged the police officers to continue the violent beating, which lasted about 10 minutes in total. In addition to insulting the complainant, the mayor ordered his men to "finish off this drug addict".

2.3 Having heard the screams, one of the complainant's colleagues arrived on the scene, realized with horror what was happening, and ran to notify police officers in the hospital's prison unit. However, as they recognized the mayor right away, none of them dared to intervene. Having noticed that medical attendants were at the scene, however, and that they had seen the complainant's bloodied body, those officers were urged to leave straight away. The municipal police commissioner then ordered his police officers to handcuff the complainant. His hands and feet were secured, and he was shoved into the back of one of the vehicles. Once inside, the police officers continued to beat him with the butts of their rifles, especially in the ribs. He was also kicked in the temple, which caused him to lose consciousness temporarily.

2.4 Before dawn, the complainant was taken to the criminal investigation police (formerly the Special Investigation Brigade) and placed in detention in a cramped cell, still handcuffed and in an alarming physical state following the beating. The police officers guarding him were ordered not to remove his handcuffs. His handcuffs were not taken off until midday on 18 October 2010, that is, after he had been handcuffed for 32 hours. There were approximately 40 detainees in the cell. Given the lack of space, some had to sleep outside the cell in an enclosed courtyard guarded from the outside by police officers.

2.5 On arriving at the jail of the criminal investigation police, the complainant had asked to see a physician, as he was in a great deal of pain from the injuries he had sustained, was bleeding from the mouth and was incontinent. However, despite his repeated requests, he was initially denied the right to see a doctor. It was not until the next day, 18 October 2010, that a doctor from Prince Regent Charles Hospital came to visit him and was able to provide him with basic care to stop the bleeding and to treat and bandage his left leg. The complainant was held in the same premises for four days, from 17 to 20 October 2010. He was never informed of the reasons for his detention, and no judicial authority ruled on its legality. Having been told unofficially by a police officer that the complainant was being held in the premises of the criminal investigation police, his colleagues visited him on 17 October 2010 and the following days to bring him food, since he did not receive any meals from the prison administration at any stage during his detention. During the first visit from his colleagues, the complainant remained handcuffed and needed help to eat.

2.6 After that first visit, the complainant's colleagues notified Radio Publique Africaine (RPA). On 18 October 2010, a journalist visited the complainant, and the news of his beating and detention was broadcast on the radio the same day. That broadcast elicited a strong reaction from the Burundian authorities: the day after the broadcast, the municipal police commissioner himself went to the radio station, where he announced, in a threatening tone, that the complainant would not be released. Following the broadcast, on 27 July 2011, journalists from RPA were brought before the Bujumbura *tribunal de grande instance* (court of major jurisdiction) by the Public Prosecutor's Office on charges of having defamed the mayor and damaged his reputation, offences that are punishable under the Criminal Code. The case was still pending at the time that this complaint was submitted to the Committee.

2.7 On 20 October 2010, while the complainant was still being held in the premises of the criminal investigation police, the staff of Prince Regent Charles Hospital began a strike, with the agreement of the hospital administration, with a view to securing his release. Several hours later, the complainant was released and admitted to Prince Regent Charles Hospital for emergency treatment, as he was still suffering from throbbing pains in his head, back, the left side of his ribcage and left leg, which was swollen, and was still suffering from incontinence. Medical examinations revealed that some of his pain was caused by a hemothorax on his left side associated with a scapular injury, wounds on his wrists and on the inside of his left leg, blood in his urine and headaches.[1] The complainant had to be hospitalized from 20 October to 23 November 2010, during which time he received treatment and painkillers. After he was discharged, he continued to receive treatment regularly, particularly for his left leg. In April 2011, he had to be admitted to hospital again, as his left leg was still very painful and he had not recovered full mobility. He had to undergo surgery on his leg and remained in hospital from 3 April to 5 May 2011.[2] Nevertheless, the complainant still has pain in his left leg and has not recovered full mobility to date.

2.8 The complainant indicates that he reported the incidents to the proper authorities. Several days after his release, on 5 November 2010, he lodged a formal complaint with the Public Prosecutor concerning the beatings and his arbitrary detention.[3] However, no investigation into the incidents was conducted. Eight months later, on 22 July 2011, in the absence of any follow-up to his complaint, he lodged another complaint with the President of the Supreme Court in which he requested that a summons to appear before the Court be issued, in accordance with article 106 of the Code of Criminal Procedure.[4] However, the Clerk of the Supreme Court refused to register the complaint on the grounds that the complainant first had to appeal to a lower court. Yet, according to the complainant, the Supreme Court is the court that has the authority to investigate and prosecute an offence imputed to a mayor, a person who, as has been established in case law, is accorded an exemption from jurisdiction under article 138, paragraph 8, of Act No. 1/08 (the Code of Judicial Organization and Jurisdiction) of 17 March 2005. Nevertheless, there was no investigation into the incidents following the complaint.

2.9 Given the inaction of the judicial authorities, on 2 February 2012 the complainant once again applied to the President of the Supreme Court to have his complaint of torture and arbitrary detention formally registered and examined.[5] The Clerk of the Supreme Court, who received his file, nonetheless refused to provide him with a receipt to serve as proof of

[1] A medical report is attached to the complaint.

[2] Discharge papers that indicate the duration of his hospitalization are attached to the complaint.

[3] A copy is attached to the complaint.

[4] A copy is attached to the complaint.

[5] A copy is attached to the complaint.

the formal registration of his complaint, thereby, according to the complainant, violating article 50 of Act No. 1/07 of 25 February 2005 governing the Supreme Court.[6] On 28 March 2012, the complainant once again went to the Supreme Court to enquire if any action had been taken in response to his complaint, but the registrar refused to give him any information. Thus, the complainant maintains, more than 18 months after the events, no investigation has been opened.

2.10 The complainant recalls that, in addition to these procedural initiatives, the offences against him were publicly reported in broadcasts of the Radio Publique Africaine (see para. 2.6). Consequently, the Burundian governmental and administrative authorities must certainly have had knowledge of the offences, and this was demonstrated by the visit of the municipal police commissioner of Bujumbura to the radio station the day after the broadcast. The complainant also stresses that the strike by the staff of Prince Regent Charles Hospital drew attention to the abuse to which he was being subjected. He adds that, on 29 October 2010, the newspaper *Iwacu*, which has a very wide readership in the country, published an article about the incident.[7] The article referred to the position of Action by Christians for the Abolition of Torture in Burundi, an organization whose president had called on the judicial authorities to take action in the complainant's case. In the light of these public denunciations, there was no way that the Burundian authorities could have been unaware of the offences committed against the complainant. However, no action was taken to ensure that these grave offences were investigated, that the perpetrators of the acts were prosecuted and punished, or that the complainant received redress.

2.11 The complainant underlines the fact that, under article 392 of the Criminal Code, any judge who refuses to administer justice after having been petitioned to do so faces a prison sentence of from 8 days to 1 month and/or a fine of from 50,000 to 100,000 Burundian francs. He notes, however, that a case brought on the basis of that provision would have no objective chance of success, since in all likelihood the prosecutor would enjoy the same protection as those who had committed the offences. Given his numerous attempts, all in vain, to institute legal proceedings, as well as the obstacles he encountered when attempting to register his complaint with the Supreme Court, the complainant adds that it is clear that both the judicial and the administrative authorities were not, and are still not, willing to prosecute or punish those responsible. Although they had been clearly identified, the mayor of Bujumbura, the commissioner and the police officers who were with them were not inconvenienced in any way. The mayor still holds public office and the police commissioner is still with the police and is currently working in Karuzi.

2.12 Besides the clear refusal of the authorities to determine responsibility in this case, the complainant draws attention to the general climate of impunity in Burundi, particularly with regard to acts of torture, which has been the subject of numerous reports issued by international bodies.[8] He recalls that the Committee has expressed its concern about the ineffectiveness of the State party's judicial system and has encouraged it to "take vigorous measures to eliminate the impunity enjoyed by the perpetrators of acts of torture and ill-treatment, whether they are State officials or non-State actors" and to "conduct timely, impartial and exhaustive inquiries; try the perpetrators of such acts and, if they are found guilty, sentence them to punishment commensurate with the gravity of the acts committed; and provide adequate compensation to the victims".[9] According to the complainant, the

[6] Article 50 of that law states that acknowledgements of receipt shall be issued for all requests, applications and memorandums submitted to the clerk of the court.

[7] A copy is attached to the complaint.

[8] The complainant refers specifically to the Committee's concluding observations concerning the initial report of Burundi (CAT/C/BDI/CO/1), adopted on 20 November 2006, para. 21.

[9] Ibid., para. 11.

failings of the State party's judicial system perpetuate this climate of impunity, and the judiciary's dependence on the executive, a matter raised by the Committee,[10] is a major obstacle to the prompt initiation of impartial investigations when there are substantial grounds to believe that an act of torture has been committed. In conclusion, the complainant states that he cannot be expected to attempt to take legal recourse against the inaction of the judicial authorities, as any such attempt would be doomed to failure. As a consequence, he requests the Committee to conclude that he attempted to invoke the available domestic remedies but that they proved ineffective. Alternatively, he requests the Committee to conclude that the application of the remedies was unreasonably prolonged, since no investigation had been opened 18 months after the events, which had been reported as soon as they had occurred.[11]

The complaint

3.1 The complainant claims he was the victim of violations by the State party of article 2, paragraph 1, and articles 11, 12, 13 and 14, read in conjunction with article 1, and, alternatively, with article 16 of the Convention.

3.2 According to the complainant, the abuse to which he was subjected caused him intense pain and suffering and constitutes acts of torture[12] as defined in article 1 of the Convention. He was first slapped twice by the mayor of Bujumbura and then brutally beaten by the municipal police commissioner and the police officers accompanying him. While he was on the ground, the police officers kicked him and hit him with the butts of their rifles all over his body, including his back, which caused bleeding and extreme pain. In the police vehicle in which he was transported, the complainant continued to be hit all over his body, which caused him to lose consciousness. The mayor encouraged his men to continue the beating, even asking them to "finish him off", thereby leaving no doubt as to his intentions. These words were extraordinarily demeaning and led him to believe that he would not survive the beating, thereby causing him extreme mental anguish.

3.3 Again with reference to article 1 of the Convention, the complainant states that he was also denied the right to see a physician on the first day of his detention; that he was left handcuffed for 32 hours; and that he was in hospital for one month and four days following the abuse and again for a month in April 2011 in order to undergo surgery on his left leg. In his view, these facts demonstrate the intensity of his pain and suffering, which required several months of medical treatment.

3.4 The complainant adds that this suffering was inflicted on him deliberately. The mayor's orders and the relentlessness by his henchmen clearly demonstrate that this was a deliberate act intended to inflict severe pain. The complainant also draws attention to the wilful refusal to provide him with any treatment during his first hours of detention, as well as his arbitrary detention for four days, which in his view was intended as punishment for having questioned the mayor of Bujumbura about payment of a security deposit for the medical treatment of the two injured men brought to the emergency room. The beating he received was also intended to intimidate him and to make him stop asking questions about the deposit. The complainant adds that he was not placed under arrest and that the police were at no time attempting to arrest him. He was taken to the premises of the criminal

[10] Ibid., para. 12. The complainant also refers to the report of the Independent Expert on the situation of human rights in Burundi (A/HRC/17/50), para. 59.

[11] The complainant refers to communication No. 8/1991, *Halimi-Nedzibi v. Austria*, decision adopted on 18 November 1993, para. 6.2.

[12] The complainant refers to communication No. 207/2002, *Dimitrijevic v. Serbia and Montenegro*, decision adopted on 24 November 2004, para. 5.3.

investigation police purely because people had started to gather around him and were thus unwelcome witnesses. Consequently, it cannot be concluded that the violence was inflicted with any legitimate objective. Furthermore, the use of force was disproportionate, given that the complainant was under the control of a police commissioner and about a dozen men, was beaten while he was on the ground and was totally helpless. Lastly, the complainant notes that there is no doubt about the fact that the perpetrators of the violence against him are public officials (the mayor, the police commissioner and the officers of the criminal investigation police).

3.5 The complainant also invokes article 2, paragraph 1, of the Convention, under which the State party should have taken "effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction". However, although there is no statute of limitations under Burundian law for genocide, crimes against humanity or war crimes, when the offence of torture is committed outside those particular contexts it is subject to a statutory limitation of from 20 or 30 years, depending on the circumstances.[13] Furthermore, the measures the Committee recommends that States parties should take to prevent torture and ill-treatment of persons deprived of their liberty — such as maintaining an official register of detainees, upholding the right to receive independent legal assistance and independent medical assistance without delay and to contact relatives, and making judicial remedies available that such persons may use to challenge the legality of their detention or treatment — were not taken in the complainant's case.[14] The complainant adds that his is not an isolated incident and that serious human rights violations by police officers largely go unpunished in Burundi. Having failed to adopt legislative or other necessary measures to prevent torture, the State party has, according to the complainant, failed to meet its obligations under article 2, paragraph 1, of the Convention.

3.6 The complainant also invokes article 11 of the Convention, noting that the State party failed to meet its obligations concerning the custody and treatment of persons subjected to any form of arrest, detention or imprisonment. His detention was unlawful. He was not informed of the charges against him, did not have access to legal counsel and was not brought before a judge at any time during his detention. As it was materially impossible for him to assert his rights through legal channels, he was unable to challenge his detention or lodge a formal complaint concerning the torture to which he had been subjected. Furthermore, he was not examined by a physician, despite the critical condition he was in upon his arrival at the premises of the criminal investigation police. Consequently, the complainant concludes that the State party failed in its duty to duly monitor the way in which he was treated during his detention at the premises of the criminal investigation police.[15]

3.7 The complainant also maintains that article 12 of the Convention, under which the competent authorities are to proceed to a prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture has been committed, has been violated

[13] Article 146 of the Criminal Code.

[14] Committee's general comment No. 2, *Official Records of the General Assembly, Sixty-third Session, Supplement No. 44* (A/63/44), annex VI, para. 13.

[15] The complainant recalls that, in its concluding observations concerning the State party's initial report, the Committee expressed concern at the "lack of systematic and effective monitoring of all places of detention, notably through regular unannounced visits by national inspectors and a mechanism for legislative and judicial monitoring" (CAT/C/BDI/CO/1, para. 19). In his initial complaint, he also notes that the State party has not ratified the Optional Protocol to the Convention, which provides for the establishment of a national mechanism for the prevention of torture. [Later, on 18 October 2013, the State party acceded to the Optional Protocol.]

by the State party in his case.[16] He recalls that it is not necessary, for the purposes of article 12, for a formal complaint to have been lodged. In the case in question, he recalls that a news report about his case was broadcast on the radio. Given the radio station's large number of listeners, there is no doubt that the Burundian authorities had heard about the broadcast, as is confirmed by the visit of the police commissioner, one of those responsible for the events, to the radio station. The complainant also draws attention to the strike by the staff of Prince Regent Charles Hospital in support of their colleague. Thus, in addition to the formal complaint lodged with the Public Prosecutor on 5 November 2010, the authorities had been fully informed of the torture to which the complainant was subjected and were consequently under an obligation to investigate these incidents on their own initiative. However, an effective, in-depth and impartial investigation was never conducted. No investigative procedures were carried out, nor were the complainant or the alleged perpetrators brought in for questioning, although they had been identified. The complainant therefore concludes that, as a prompt and impartial investigation was not carried out into the allegations of torture of which he was a victim, the State party acted in violation of its obligations under article 12 of the Convention.

3.8 With respect to article 13 of the Convention, the complainant maintains that the State party was obligated to guarantee his right to file a complaint with the authorities and to have his case promptly and impartially examined. He points out that, in the case in question, he lodged a formal complaint with the Public Prosecutor on 5 November 2010, and with the President of the Supreme Court on 22 July 2011 and again on 2 February 2012, with no results. He recalls that the Committee has stressed the importance of prompt investigations and has found that delays of 15 months, 10 months, 2 months and even 3 weeks are excessive with regard to the requirement to conduct prompt investigations.[17] In the case in question, 18 months after the events, no investigation has been conducted. Consequently, he maintains that the State party has acted in violation of article 13 of the Convention.

3.9 The complainant also invokes article 14 of the Convention. He states that, by depriving him of due process, the State party has also deprived him of the enforceable right to compensation for torture. Furthermore, given the inaction of the judicial authorities, other remedies to obtain redress, through a civil suit for damages, for example, have no realistic prospect of success. The Burundian authorities have taken few measures to compensate victims of torture, a point raised by the Committee in its concluding observations concerning the State party's initial report in 2007.[18] The complainant adds that he is still suffering the physical and psychological consequences of the beating he received (see para. 2.7) and that he has never benefited from any form of rehabilitation designed to ensure that he recovers as fully as possible in physical, mental, social and financial terms. He recalls the State party's obligation to ensure that redress is obtained, including, but not limited to, the provision of compensation for the harm suffered and the adoption of measures to ensure non-repetition, particularly through the imposition of penalties on the perpetrators commensurate with the severity of their acts. This involves, first of all, opening

[16] The complainant refers to communication No. 341/2008, *Sahli v. Algeria*, decision adopted on 3 June 2011, para. 9.6; communication No. 187/2001, *Thabti v. Tunisia*, decision adopted on 14 November 2003, para. 10.4; communication No. 60/1996, *M'Barek v. Tunisia*, decision adopted on 10 November 1999, para. 11.7; and communication No. 59/1996, *Blanco Abad v. Spain*, decision adopted on 14 May 1998, para. 8.2.

[17] The complainant refers to *Halimi-Nedzibi v. Austria*, para. 13.5; *M'Barek v. Tunisia*, para. 11.7; and *Blanco Abad v. Spain*, para. 8.4.

[18] CAT/C/BDI/CO/1, para. 23.

an investigation and prosecuting those responsible.[19] The crime committed against the complainant remains unpunished, as his torturers have not been convicted, prosecuted, investigated or troubled in any way at all, which is a violation of his right to redress under article 14 of the Convention.

3.10 The complainant reiterates that the violence inflicted upon him constituted torture as defined in article 1 of the Convention. However, alternatively, even if the Committee were not to characterize it as such, the abuse suffered by the victim in any case constitutes cruel, inhuman or degrading treatment and, accordingly, the State party is obligated, under article 16 of the Convention, to prevent public officials from committing, instigating or tolerating such acts and for punishing them if they do. Furthermore, the complainant recalls the conditions in which he was held during the four days of his arbitrary detention in the jail of the criminal investigation police (see para. 2.4) and refers to the Committee's concluding observations concerning the State party's initial report, in which it noted that conditions of detention in Burundi "amount to inhuman and degrading treatment".[20] He recalls that he did not receive medical treatment immediately, despite being in a critical condition, and that the treatment he finally did receive was inadequate in view of his condition. Lastly, he recalls that he was handcuffed for 32 hours. In conclusion, the complainant contends, alternatively, that he was the victim of a violation of article 16 of the Convention. He also maintains that the conditions of detention to which he was exposed amount to a violation of article 16 of the Convention.

State party's failure to cooperate

4. On 13 December 2012, 8 May 2013 and 9 October 2013, the State party was invited to submit its comments on the admissibility and the merits of the communication. The Committee notes that no information has been received in this connection. It regrets the State party's refusal to communicate any information on the admissibility and/or merits of the complainant's claims. The Committee recalls that the State party is obligated, pursuant to the Convention, to submit written explanations or statements to the Committee in order to clarify the matter and indicate the steps, if any, that the State party may have taken to remedy the situation. In the absence of a response from the State party, due weight must be given to the complainant's allegations, which have been properly substantiated.

Issues and proceedings before the Committee

Consideration of admissibility

5.1 As required under article 22, paragraph 5 (a), of the Convention, the Committee has ascertained that the same matter has not been, and is not being, examined under another procedure of international investigation or settlement.

5.2 The Committee recalls with concern that, despite the three reminders sent to it, the State party has not provided any observations. The Committee therefore finds that it is not precluded from considering the communication under article 22, paragraph 5 (b), of the Convention. The Committee finds no reason not to consider the communication admissible

[19] The complainant refers among other things to communication No. 212/2002, *Urra Guridi v. Spain*, decision adopted on 17 May 2005, para. 6.8. He adds that these views are in line with the jurisprudence of the Human Rights Committee (communication No. 563/1993, *Bautista de Arellana v. Colombia*, Views adopted on 23 October 1995, para. 8.2; communication No. 778/1997, *Coronel et al. v. Colombia*, Views adopted on 24 October 2002, para. 6.2) and the European Court of Human Rights (*Assenov v. Bulgaria*, 28 October 1998, para. 102 and 117, *Recueil des arrêts et décisions* 1998-VIII; *Aksoy v. Turkey*, 18 December 1996, para. 90, *Recueil des arrêts et décisions* 1996-VI).

[20] CAT/C/BDI/CO/1, para. 17.

and thus proceeds to its consideration of the merits of the claims submitted by the complainant under articles 2 (para. 1), 11, 12, 13, 14 and 16 of the Convention.

Consideration of the merits

6.1 The Committee has considered the complaint in the light of all the information made available to it by the parties in accordance with article 22, paragraph 4, of the Convention. As the State party has not provided any observations on the merits, due weight must be given to the complainant's allegations.

6.2 The Committee notes that, according to the complainant, on the night of 17 October 2010, the mayor of Bujumbura, the municipal police commissioner of Bujumbura and 11 national police officers arrived at Prince Regent Charles Hospital, where the complainant was working. During the subsequent altercation, the mayor and the police officers struck him repeatedly, leaving him bleeding and in severe pain. Referring to the victim, the mayor ordered his men to "finish off this drug addict". The complainant was then handcuffed, put into a vehicle and beaten until he lost consciousness on the way to the jail of the criminal investigation police. The Committee has taken note of the complainant's allegations that the blows he received caused extreme pain and mental suffering and were deliberately inflicted by agents of the State with the objective of punishing and intimidating him. In the absence of any refutation by the State party, the Committee concludes that due weight must be given to the complainant's allegations and that the events in question, as described by the complainant, constitute acts of torture within the meaning of article 1 of the Convention.

6.3 The complainant also invokes article 2, paragraph 1, of the Convention, under which the State party is enjoined to "effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction". The Committee observes, in the case in question, that the complainant was beaten, then detained without being allowed to contact his family or being given access to legal or medical assistance. The Committee recalls its concluding observations concerning the State party's initial report, in which it called on the State party to take legislative, administrative and judicial measures to prevent torture and ill-treatment and to take steps, as a matter of urgency, to bring all places of detention under judicial control and to prevent its officials from making arbitrary arrests and from engaging in torture.[21] The apparent lack of any mechanism to provide oversight of the criminal investigation police jail where he was held without doubt exposed him to an increased risk of being subjected to torture and deprived him of any possible remedy. The Committee consequently finds a violation of article 2, paragraph 1, read in conjunction with article 1 of the Convention.[22]

6.4 With regard to articles 12 and 13 of the Convention, the Committee has taken note of the complainant's claims that, on 17 October 2010, he was beaten and detained by police officers who were accompanying the mayor of Bujumbura and was held without legal justification until 20 October 2010. He lodged formal complaints with the Public Prosecutor on 5 November 2010, and with the President of the Supreme Court on 22 July 2011 and 2 February 2012, with no result. Although the perpetrators were clearly identified, the State party has still not conducted any investigation four years after the incidents in question. The Committee considers that so long a delay in initiating an investigation into allegations of torture is patently unjustified and clearly breaches the State party's obligations under article 12 of the Convention, which requires it to proceed to a prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture has been committed.

[21] CAT/C/BDI/CO/1, para. 10.

[22] See communication No. 376/2009, *Bendib v. Algeria*, decision adopted on 8 November 2013, para. 6.4.

By failing to meet this obligation, the State party has also failed to fulfil its responsibility under article 13 of the Convention to guarantee the right of the complainant to lodge a complaint, which presupposes that the authorities provide a satisfactory response to such a complaint by launching a prompt and impartial investigation.[23]

6.5 Regarding the complainant's allegations under article 14 of the Convention, the Committee recalls that this provision not only recognizes the right to fair and adequate compensation, but also requires States parties to ensure that the victim of an act of torture obtains redress. The Committee refers to its general comment No. 3 (2012), in which it establishes that States parties should ensure that victims of torture or ill-treatment obtain full and effective redress and reparation, including compensation and the means for as full a rehabilitation as possible.[24] Redress should cover all the harm suffered by the victim and encompass, among other measures, restitution, compensation and guarantees of non-repetition of the violations, taking into account the circumstances of the individual case.[25] In the case in question, the Committee has noted the complainant's allegation that he was admitted to hospital twice in connection with the abuse to which he was subjected and that he is still suffering from the after-effects (see para. 2.7), but that he has not benefited from any form of redress. In the absence of a prompt and impartial investigation, despite clear material evidence that the complainant was the victim of acts of torture which have gone unpunished, the Committee concludes that the State party has also failed to fulfil its obligations under article 14 of the Convention.

6.6 Regarding the complaint under article 16, the Committee has taken note of the complainant's claim that he was detained from 17 to 20 October 2010 in the premises of the criminal investigation police in a cramped room shared with some 40 other detainees; that he was kept handcuffed for 32 hours; that he was given no food; and that he was denied access to a physician on the first day of his detention, despite his request and his worrisome condition. The Committee has also taken note of the complainant's argument that he was not informed of the charges against him, he did not have access to legal counsel and that he was not brought before a judge at any time during his detention. The Committee concludes that the facts disclose a violation by the State party of its obligations under article 16, read in conjunction with article 11 of the Convention.

7. The Committee against Torture, acting under article 22, paragraph 7, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is of the view that the facts before it disclose violations of articles 1, 2 (para. 1), 12, 13, 14 and 16, read in conjunction with article 11, of the Convention.

8. Pursuant to rule 118, paragraph 5, of its rules of procedure, the Committee urges the State party to conduct an impartial investigation into the events in question for the purpose of prosecuting those allegedly responsible for the victim's treatment and to inform it, within 90 days from the date of the transmittal of this decision, of the steps it has taken in conformity with the above views, including adequate and fair compensation encompassing the means for as full rehabilitation as possible.

[Adopted in English, Spanish, French and Russian, the French text being the original version. Subsequently to be issued also in Arabic and Chinese as part of the Committee's annual report to the General Assembly.]

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[23] Ibid., para. 6.6.

[24] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 44* (A/68/44), annex X, para. 5.

[25] See *Hammouche v. Algeria*, para. 6.7 and *Hanafi v. Algeria*, para. 9.7.